

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 04-13534  
\_\_\_\_\_

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
JUNE 13, 2005  
THOMAS K. KAHN  
CLERK

D. C. Docket Nos. 99-07359 CV-SH  
94-06114 CR-SH

FLOYD MCLEAN,

Petitioner-Appellee,

versus

UNITED STATES OF AMERICA,

Respondent-Appellant.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Florida  
\_\_\_\_\_

(June 13, 2005)

Before DUBINA and WILSON, Circuit Judges, and LAWSON\*, District Judge.

PER CURIAM:

\_\_\_\_\_  
\*Honorable Hugh Lawson, United States District Judge for the Middle District of Georgia,  
sitting by designation.

Appellant, the United States, appeals the district court's order granting habeas relief to appellee Floyd McLean on his motion to vacate, filed under 28 U.S.C. § 2255.

The issues presented on appeal are (1) whether McLean's claim of ineffective assistance of counsel for counsel's failure to review a videotape with him so that McLean could enter into plea negotiations with the government related back to his original claims; and (2) if the claim related back, did McLean demonstrate sufficient prejudice due to his attorney's inadequate performance.

We review a district court's application of Fed. R. Civ. P. 15(c) for abuse of discretion. *See Davenport v. United States*, 217 F.3d 1341, 1343 n. 4 (11th Cir. 2000).

After reviewing the record, reading the parties' briefs, and having the benefit of oral argument, we affirm the district court's order granting McLean's § 2255 motion.

**AFFIRMED.**

